

1 A bill to be entitled
 2 An act relating to prearrest diversion programs;
 3 creating s. 901.40, F.S.; encouraging local
 4 communities and public or private educational
 5 institutions to implement prearrest diversion programs
 6 for certain offenders; encouraging prearrest diversion
 7 programs to share information with other prearrest
 8 diversion programs; authorizing law enforcement
 9 officers, at their sole discretion, to issue a civil
 10 citation or similar prearrest diversion program notice
 11 to adults under specified circumstances; requiring an
 12 adult who is issued a civil citation or similar notice
 13 by a participating law enforcement agency to report
 14 for intake as required by the prearrest diversion
 15 program; requiring the program to provide certain
 16 appropriate services; requiring that an adult who is
 17 issued a civil citation or similar notice fulfill a
 18 community service requirement; requiring the adult to
 19 pay restitution to a victim; specifying that a law
 20 enforcement agency may criminally charge an adult who
 21 fails to complete the prearrest diversion program and
 22 refer the case for prosecution; prohibiting an arrest
 23 record from being associated with a certain offense
 24 for an adult who successfully completes the program;
 25 requiring specified entities to create the prearrest

26 diversion program; requiring the entities to develop
 27 policies and procedures for the development and
 28 operation of the program and to solicit input from
 29 other interested stakeholders; authorizing specified
 30 entities to operate the program; specifying how the
 31 misdemeanor offenses that are eligible for the
 32 prearrest diversion program are selected; providing
 33 applicability; providing an effective date.
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35 Be It Enacted by the Legislature of the State of Florida:
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37 Section 1. Section 901.40, Florida Statutes, is created to
 38 read:

39 901.40 Prearrest diversion programs.-

40 (1) INTENT.-The Legislature encourages local communities
 41 and public or private educational institutions to implement
 42 prearrest diversion programs that afford certain adults who
 43 fulfill specified intervention and community service obligations
 44 the opportunity to avoid an arrest record. The Legislature does
 45 not mandate that a particular prearrest diversion program for
 46 adults be adopted, but finds that the adoption of the model
 47 provided in this section would allow certain adults to avoid an
 48 arrest record, while ensuring that those adults receive
 49 appropriate intervention and fulfill community service
 50 obligations. If a prearrest diversion program is implemented,

51 the program is encouraged to share information with other
 52 prearrest diversion programs.

53 (2) MODEL ADULT CIVIL CITATION PROGRAM.—Local communities
 54 and public or private educational institutions may adopt a
 55 program in which:

56 (a) Law enforcement officers, at their sole discretion,
 57 may issue a civil citation or similar prearrest diversion
 58 program notice to certain adults who commit a qualifying
 59 misdemeanor offense selected by the program. A civil citation or
 60 similar notice may be issued only if the adult does not contest
 61 that he or she committed the offense and if the adult has not
 62 previously been arrested and has not previously received an
 63 adult civil citation or similar notice, unless the terms of the
 64 program allow otherwise.

65 (b) An adult who receives a civil citation or similar
 66 notice shall report for intake as required by the prearrest
 67 diversion program and shall be provided appropriate assessment,
 68 intervention, education, and behavioral health care services by
 69 the program. While in the program, the adult shall perform
 70 community service hours as specified by the program. The adult
 71 shall pay restitution due to the victim as a program
 72 requirement. If the adult does not successfully complete the
 73 prearrest diversion program, the law enforcement agency that
 74 issued the civil citation or similar notice may criminally
 75 charge the adult for the original offense and refer the case to

76 | the state attorney to determine if prosecution is appropriate.
 77 | If the adult successfully completes the program, an arrest
 78 | record may not be associated with the offense.

79 | (3) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—
 80 | Representatives of participating law enforcement agencies, a
 81 | representative of the program services provider, the public
 82 | defender, the state attorney, and the clerk of the circuit court
 83 | shall create the prearrest diversion program and develop its
 84 | policies and procedures including, but not limited to,
 85 | eligibility criteria, program implementation and operation, and
 86 | the determination of the fee, if any, to be paid by adults
 87 | participating in the program. In developing the policies and
 88 | procedures for the program, the parties must solicit input from
 89 | other interested stakeholders. The program may be operated by an
 90 | entity such as a law enforcement agency, the county or
 91 | municipality, or another entity selected by the county or
 92 | municipality.

93 | (4) QUALIFYING OFFENSES.—Misdemeanor offenses that qualify
 94 | the offender for a prearrest diversion program must be selected
 95 | as part of the program development under subsection (3).

96 | (5) APPLICABILITY.—This section does not preempt a county
 97 | or municipality from enacting noncriminal sanctions for a
 98 | violation of an ordinance or other violation, and it does not
 99 | preempt a county, a municipality, or a public or private
 100 | educational institution from creating its own model for a

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101 | prearrest diversion program for adults.

102 | Section 2. This act shall take effect July 1, 2017.